

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK

CHAPTER 13

In Re:

CASE NO. 10-22966-JCN

MICHELLE SOTO,

Debtor.

ORDER VACATING AUTOMATIC STAY

WHEREAS, pursuant to the motion of the secured creditor, U.S. BANK NATIONAL ASSOCIATION, and/or its successors and assigns for an Order modifying the Automatic Stay in this proceeding by permitting said secured creditor to foreclose on the mortgage of the premises commonly known as 10 Cascade Road, West Henrietta, NY 14586, and

NOW, on motion of STEIN, WIENER & ROTH, L.L.P., attorneys for U.S. BANK NATIONAL ASSOCIATION, having come to be heard before this Court and no opposition having been submitted, and due deliberation having been had, it is

ORDERED, that the automatic stay pursuant to 11 U.S.C. §362(d) and §1301(c) of the Bankruptcy Code as against U.S. BANK NATIONAL ASSOCIATION, and/or its successors and assignees, with respect to the Secured Premises located at 10 Cascade Road, West Henrietta, NY 14586 is hereby vacated; and it is further

ORDERED, that U.S. BANK NATIONAL ASSOCIATION, and/or its successors and assigns be and hereby is granted permission to commence/continue a mortgage foreclosure proceeding in the New York Supreme Court without further Order of this Court, with respect to the premises known as 10 Cascade Road, West Henrietta, NY 14586; and it is further

ORDERED, that the petitioner may apply for final judgment of foreclosure and sale without further application to this court; and it is further

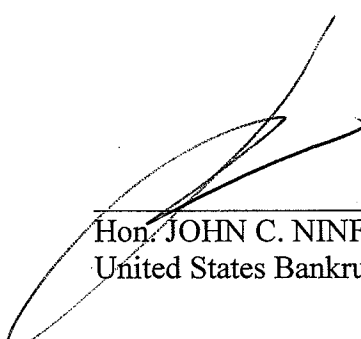
ORDERED, that if the foreclosure sale results in surplus monies, the attorney for the Movant shall notify the Trustee, in writing, within 10 days of the sale of the existence of said surplus monies. All rights which the trustee has in said surplus monies are preserved; and it is further

ORDERED, that the 14 day stay of this order granting relief from stay pursuant to Rule 4001 (a) (3) is hereby waived, and the order is deemed effective as of this date; and it is further

ORDERED, that in the event this matter shall be converted to any other Chapter under Title 11, that a new stay shall not be imposed against U.S. BANK NATIONAL ASSOCIATION, and/or its successor and assigns merely by such a conversion; and it is further

ORDERED, the Secured Creditor shall be allowed attorney's fees and costs for making this motion.

Dated: Rochester, New York
March 3, 2011



Hon. JOHN C. NINFO, II
United States Bankruptcy Judge

